

## INFORMATION PAPER

SUBJECT: Holiday Office Parties - Selected Legal and Ethical Issues

1. Purpose. To address common legal and ethics issues involving office holiday parties.

2. Facts. Holidays are a special time of year when many organizations traditionally have unofficial functions (parties) to celebrate the season. Here are some general guidelines to keep in mind:

a. **Use of Government Time.**

(1) Preparations for office holiday parties may occur on government time if approved in advance by the supervisor. Supervisors may permit use of duty time, within reasonable limits, for preparations by a committee or chairperson. However, preparing for a holiday party should not become a significant part of any employee's duties.

(2) While an office holiday party is a well-established tradition for federal employees, the inclusion of contractor personnel raises legal issues. To put it simply, taxpayer dollars cannot be used to "pay" contractor personnel for time spent at an office holiday party occurring during duty hours. If authorized to attend under the criteria below, contractor employees may bring food to share or make a fair-share contribution of money to cover the cost of refreshments, as these contributions are not considered to be gifts. Contractor employees who are in a leave status may participate in an office party that occurs during duty hours. However, contractor employees not in a leave status may only participate in office holiday parties provided:

(a) the office party takes place after duty hours;

(b) the office party takes place entirely during the daily lunch hour; or

(c) the contractor decides to let its employees attend and foregoes payment for their time. If contractor employees are allowed to attend, the contractor must also decide whether it would pay its employees for that time, even though the government would not reimburse it. The contractor does not have to pay its employees for that time. Consult the contracting officer and ethics counselor before inviting contractor employees to a function during their duty hours.

(3) An office party should be considered an alternate duty site for federal employees. Employees who choose not to participate in the office party may remain at their work stations and perform normal duties or take leave.

(4) Supervisors may not “encourage” attendance at holiday parties by giving attendees “59 minutes” off while not giving non-attendees this same benefit.

b. **Use of Government Vehicles.** AR 58-1, Management, Acquisition, and Use of Motor Vehicles, provides that government vehicles will only be used to support official functions. As a general rule, participation at holiday office parties or similar social events is personal, not official; therefore, use of government vehicles to/from such events would not be authorized. Very limited fact-specific exceptions exist for senior officers. All requests for use of a government vehicle to attend holiday social events should be reviewed on a case-by-case basis.

c. **Use of Government Resources.** The JER, Section 2-301 provides that federal government communication systems and equipment (including government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the federal government) shall be for official use and authorized purposes only. Government resources also include office supplies, printing and reproduction equipment and government mail. One form of authorized use is presenting information of common interest (for example, an event such as a holiday party) to DoD employees via e-mail or similar government communication system.

d. **Gift Exchanges, Including Contractor Employee Issues.**

(1) **Random Gift Exchanges.** If the office party includes a gift exchange in which gifts are chosen at random or traded, there are usually no ethical issues based on monetary limits on the gift because the purchaser does not know who will receive the gift. However, it is advisable and prudent to establish a reasonable value for individual gifts. A \$10 limit eliminates the vast majority of potential gift-giving issues.

(2) **Drawing Names.** Gift exchanges that include drawing a name ahead of time and giving a gift to a specific person create more complex issues due to restrictions on gifts from “prohibited sources” (such as contractors) and limitations on gifts that cross superior-subordinate lines. Gifts not exceeding \$20 may be accepted from contractor employees, so long as the federal employee has not accepted other gifts from the contractor that, when accumulated, exceed \$50 for the year. The JER limits the acceptance of gifts by superiors from subordinates to a value of \$10 or less on an occasional basis; therefore, at a holiday party, superiors, such as supervisors, may accept gifts of \$10 or less from subordinates or federal personnel who receive less pay.

e. **Office Party Fundraising.**

(1) Generally, office parties are unofficial events; therefore, appropriated funds may not be used to pay for them. Often times a government agency will seek to defray the cost of a holiday party by engaging in some type of fundraising. Very specific rules and procedures apply in these circumstances.

(2) The general rule is "no fundraising in the federal workplace." However, an exception exists for office events (such as holiday parties) if the money is to be raised only from among the members of the group for their own benefit and when approved in writing by the commander or director of the unit, directorate, or organization concerned (or his or her designee) after consultation with an ethics advisor. A copy of the approval must be submitted to the Garrison Commander.

(3) Considerations in the approval/disapproval process should include the frequency of fundraising requests from a particular organization, the length of the proposed fundraiser, conflicts with CFC and AER, and potential disruption of the workplace. Any fundraising efforts should be low key, use minimal government time and resources (at no cost to the government), and should not include any solicitations of outside sources.

(4) See also paragraph 2j as it concerns prohibitions on solicitations.

f. **Fundraising For Private Organizations.** During the holiday season, on-post fundraising requests in the form of collecting goods/presents for the less fortunate are often made. One prominent example is the Marine Corps' "Toys for Tots" Campaign. The following rules apply to this type of fundraiser:

(1) The fundraising activity must not be conducted during the CFC and AER fundraising drives;

(2) For collection boxes maintained at a holiday party, only in-kind donations (toys) and no monetary donations may be solicited or accepted;

(3) There can be no coercion in participating; and

(4) The Garrison Commander must have already approved the fundraiser.

g. **Fundraising By Private Organizations.** At the discretion of the Garrison Commander, and in consultation with the ethics advisor, private organizations may conduct nonprofit sales events that do not compete with the Army and Air Force Exchange Service (AAFES) or installation Nonappropriated Fund Instrumentalities.

h. **Holiday Greetings.** Appropriated funds may not be used to purchase holiday greeting cards. Likewise, official resources--including paper, printers, envelopes and postage--may not be used for holiday greeting cards. Electronic greeting cards with large file attachments or executable files should not be transmitted on official Army systems. Moreover, subordinates may not be tasked to prepare or address personal greetings.

i. **Alcohol.** AR 600-85, Army Substance Abuse Program, provides that official/unofficial functions will not encourage or glamorize the consumption of alcohol. Also, alcoholic beverages may not be given as prizes. This prohibition does not apply

to gift exchanges. Alcohol cannot be consumed during duty hours at the workplace without specific approval of the first general officer or SES equivalent in the chain of supervision.

j. **Soliciting Businesses for Donations**. Units and directorates may NOT solicit contractor employees, local businesses, MWR, or AAFES for donations to their holiday parties. Only unsolicited gifts may be accepted, and even then only within restricted limits. The activity members should pay for the expenses of their party, not the local community.

k. **Door Prizes**. Beware that door prizes or drawings could involve gambling, which would require compliance with state statutes and federal regulations. DoD regulations prohibit gambling in the Pentagon and on federal property or while in a duty status. GSA regulations ban gambling in GSA owned or controlled buildings.

3. Questions about this guidance, or requests for an ethics review of an organizational holiday party, should be addressed to the Ethics Counselor at your servicing legal office. For activities served by the Fort Belvoir OSJA, contact the Administrative Law Section at (703) 805-4393.

Mr. Seamus K. Barry/805-5013  
Approved by LTC LeMay, SJA